

INVITATION FOR BIDS

Rebate Arbitrage Compliance Services



IFB #600-11-602

www.energy.state.ca.gov/contracts

State of California

California Energy Commission

January 2012

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I. Introduction

BACKGROUND

The Energy Efficiency Master Trust Revenue Bonds include Series 2003A (dated April 10, 2003), and Series 2005A (dated April 27, 2005). Each bond is supported by repayments from pledged loans from the Energy Commission Loan program for public agencies. The list of loans, repayment schedule, debt coverage requirement and other pertinent information for each of these bond issues, (2003A and 2005A) is available in the Official Statements for each of these bond issues. Loan payments used in support of the bonds are made semi-annually in June and December of each year to the Energy Commission and will include unscheduled loan payments. The Revenue Bond Official Statements, Bond Indentures, Restated and Amended Master Trust (covering both Bond Issues), Secured Loan Agreements, and Continuing Disclosure Agreements provide specific details of the structure of the bonds and the associated parties.

The Contractor for this contract will provide complete tax analysis, filings, opinions, and any other rebate arbitrage tasks as required by the Internal Revenue Service and as required by the 2003A and 2005A Tax Certificates and Agreements or any other associated bond documents and agreements. The rebate calculations are calculated separately for each of the two Series (2003A and 2005A).

PURPOSE OF IFB

To obtain an experienced rebate arbitrage consulting firm (Contractor) to provide complete and precise tax analysis of the Energy Efficiency Master Trust Revenue Bond Series 2003A and 2005A sub-accounts and any other related bond accounts that affect tax liability of the California Energy Commission for arbitrage purposes.

KEY ACTIVITIES AND DATES

Key activities including dates and times for this IFB are presented below. An addendum will be released if the dates change for the asterisked (*) activities.

ACTIVITY	ACTION DATE
IFB Release	January 24, 2012
Deadline to Submit Bid by 3:00 p.m.*	February 14, 2012
Public Bid Opening	February 15, 2012
Notice of Proposed Award	February 16, 2012
Commission Business Meeting	April 11, 2012
Contract Start Date	April 17, 2012
Contract Termination Date	December 31, 2014

AVAILABLE FUNDING AND HOW AWARD IS DETERMINED

There is \$45,000 available for the contract resulting from this IFB. This is an hourly rate plus cost reimbursement contract and the award will be made to the responsible Bidder providing the lowest cost.

The Commission reserves the right to reduce the contract amount to an amount deemed appropriate in the event the budgeted funds do not provide full funding of Commission

contracts. In this event, the Contractor and Commission Contract Manager (CCM) shall meet and reach agreement on a reduced scope of work commensurate with the level of available funding.

ELIGIBLE BIDDERS

This solicitation is restricted to private entities, including non-profit organizations and private universities, and any public entity that can meet the requirements of this solicitation (e.g., Disabled Veteran Business Enterprise participation) and agree to the attached terms and conditions that will be included in the resulting agreement(s). Even if public entities cannot meet these requirements or agree to the terms, they can still participate as subcontractors.

The reason for this distinction is that the Department of General Services, which has oversight of state contracting, no longer allows the Energy Commission to include different terms and conditions within the same solicitation. The Energy Commission used to do this because some public entities cannot agree to the same terms and conditions that apply to private entities. Every entity that bids under this solicitation must meet the solicitations requirements and must agree to the terms and conditions included. The Energy Commission will not award contracts to non-complying entities.

QUESTIONS

During the IFB process, questions of clarification about this IFB must be directed to the Contracts Officer listed in the following section.

Potential Bidders shall carefully examine the qualifications and specifications of this IFB and may submit written questions via mail, electronic mail, and by FAX.

Any verbal communication with a Commission employee concerning this IFB is not binding on the State and shall in no way alter a specification, term, or condition of the IFB.

CONTACT INFORMATION

Sherri Bower, Contracts Officer
California Energy Commission
1516 Ninth Street, MS-18
Sacramento, California 95814
FAX: (916) 654-4423
E-mail: sbower@energy.state.ca.us

RESPONSES TO THIS IFB

Responses to this solicitation shall be in the form of an Administrative Response and a sealed and formal Cost Bid using Attachment 7, Budget Forms, according to the format described in this IFB. The Cost Bid shall detail the Bidder's budget to perform the tasks outlined in the Scope of Work.

REFERENCE DOCUMENTS

Bidders responding to this IFB may want to familiarize themselves with the following documents for both bond issues 2003A and 2005A:

- Master Trust Agreement
- Bond Indentures
- Secured Loan Agreements
- Tax Certificate & Agreements
- Official Statements
- Continuing Disclosure Agreements
- 2010 Interim Arbitrage Rebate and Yield Restriction Analyses

All above reference documents are available online at:

http://www.energy.ca.gov/efficiency/revenuebonds/bond_related_documents/

II. Scope of Work and Deliverables

ABOUT THIS SECTION

This section describes the contract scope of work, deliverables and due dates under the direction of the Commission Contract Manager (CCM).

BACKGROUND

The Energy Efficiency Master Trust Revenue Bond Series include 2003A (dated April 27, 2003 for \$28,005,000) and 2005A (dated May 11, 2005 for \$36,955,000). Each series is supported by repayments from pledged loans from the Energy Conservation Assistance Program (ECA) and Local Jurisdiction Account (LJA). The list of loans, repayment schedule, debt coverage requirement and other pertinent information is available in the Official Statements for each of these bond issues, (2003A and 2005A). Loan payments used in support of the bonds are made semi-annually in June and December of each year to the Energy Commission and include unscheduled loan payments. The official bond documents including but not limited to, the Bond Indentures, the Master Trusts, the Secured Loan Agreements, the Tax Certificates, and the Investment Contracts, provide specific details of the structure of the bonds, their sub-accounts and the associated parties.

In May of 2005 the Energy Commission hired a private sector Bond Trustee, JP Morgan, to act as Trustee of Record and Continuing Disclosure Agent for both bond issues. JP Morgan's worldwide trust business was sold to the Bank of New York, thus the Bank of New York is the current Trustee. Several bond sub-account funds are invested through Guaranteed Investment Contracts (GICs) and a Repurchase Agreement at specified interest rates through Wells Fargo Bank and the Royal Bank of Canada. Both of the 2003A and 2005A bond issues have individual Debt Service Reserve Accounts and accumulated interest earnings which are used to maintain a minimum of 20 percent of the outstanding balance of each bond issue and interest earned on the reserve accounts is used to support a debt service coverage ratio of 110 percent. The bond issues are audited annually. Continuing disclosure reports are filed annually, and rebate arbitrage calculations are prepared annually and filed on a five year computation date cycle.

The term "Bonds" in this Scope of Work refers to both the 2003A and 2005A Series, collectively.

FORMAT/REPORTING REQUIREMENTS

Deliverables/Reports

When creating reports, the Contractor shall use and follow, unless otherwise instructed in writing by the Commission Contract Manager (CCM), the latest version of the Consultant Reports Style Manual published on the Energy Commission's web site:

http://www.energy.ca.gov/contracts/consultant_reports/index.html

Each final deliverable shall be delivered as one original, reproducible, 8 ½" by 11", camera-ready master in black ink. Illustrations and graphs shall be sized to fit an 8 ½" by 11" page and readable if printed in black and white.

Electronic File Format

The Contractor shall deliver an electronic copy (CD ROM or memory stick or as otherwise specified by the CCM) of the full text in a compatible version of Microsoft Word (.doc).

The following describes the accepted formats of electronic data and documents provided to the Energy Commission as contract deliverables and establishes the computer platforms, operating systems and software versions that will be required to review and approve all software deliverables.

- Data sets shall be in Microsoft (MS) Access or MS Excel file format.
- PC-based text documents shall be in MS Word file format.
- Documents intended for public distribution shall be in PDF file format, with the native file format provided as well.
- Project management documents shall be in MS Project file format.

Software Application Development

If this scope of work includes any software application development, including but not limited to databases, websites, models, or modeling tools, contractor shall utilize the following standard Application Architecture components in compatible versions:

- Microsoft ASP.NET framework (version 3.5 and up) Recommend 4.0
- Microsoft Internet Information Services (IIS), (version 6 and up) Recommend 7.5
- Visual Studio.NET (version 2008 and up) Recommend 2010
- C# Programming Language with Presentation (UI), Business Object and Data Layers
- SQL (Structured Query Language)
- Microsoft SQL Server 2008, Stored Procedures Recommend 2008 R2
- Microsoft SQL Reporting Services Recommend 2008 R2
- XML (external interfaces)

Any exceptions to the Electronic File Format requirements above must be approved in writing by the Energy Commission Information Technology Services Branch.

TASKS

The Contractor shall provide arbitrage rebate consulting services during the Agreement term and shall be responsible for assisting the Energy Commission in completing the following tasks:

TASK 1- AGREEMENT MANAGEMENT

Task 1.1 Kick-off Meeting

The goal of this task is to establish the lines of communication and procedures for implementing this Agreement.

The Contractor shall:

- Attend a “kick-off” meeting with the CCM, the Contracts Officer, and a representative of the Accounting Office. The meeting will be held via Web-Ex or teleconference. The Contractor shall include their Project Manager, Contracts Administrator, Accounting Officer, and others designated by the CCM in this meeting. The administrative and technical aspects of this Agreement will be discussed at the meeting.
- If necessary, prepare an updated Schedule of Deliverables based on the decisions made in the kick-off meeting.

The CCM shall:

- Arrange the meeting including scheduling the date and time.
- Provide an agenda to all potential meeting participants prior to the kick-off meeting.

Deliverables:

- An Updated Schedule of Deliverables (if applicable)

Task 1.2 Invoices**The Contractor shall:**

- Prepare invoices for all reimbursable expenses incurred performing work under this Agreement in compliance with the Exhibit B of the Terms and Conditions of the Agreement. Invoices shall be submitted monthly. Invoices must be submitted to the Energy Commission's Accounting Office.

Deliverables:

- Invoices

Task 1.3 Manage Subcontractors

The goal of this task is to ensure quality products, to enforce subcontractor Agreement provisions, and in the event of failure of the subcontractor to satisfactorily perform services, recommend solution to resolve the problem.

The Contractor shall:

- Manage and coordinate subcontractor activities. The Contractor is responsible for the quality of all subcontractor work and the Energy Commission will assign all work to the Contractor. If the Contractor decides to add new subcontractors, they shall 1) comply with the Terms and Conditions of the Agreement, and 2) notify the CCM who will follow the Energy Commission's process for adding or replacing subcontractors.

Task 1.4 Final Summary Report

The goal of this task is to prepare a written Final Summary Report at the end of the agreement. The Final Summary Report shall be prepared in language easily understood by the public or layperson with a limited technical background.

The Final Summary Report must be completed before the termination date of the Agreement in accordance with the Schedule of Deliverables.

The Final Summary Report shall be a public document. If the Contractor has obtained confidential status from the Energy Commission and will be preparing both a public and a confidential version of the Final Summary Report, the Contractor shall perform the following subtasks for both the public and confidential versions of the Final Summary Report.

The Contractor shall:

- Prepare a Final Summary Report, identifying the methodology employed in each yearly rebate analysis, major assumptions, conclusions, and any recommendations for changes in recordkeeping and investment policy, and address the following:
 - Rebate and Yield Restrictions
 - Sources & Uses of Funds

- Commingled funds analyses
- Transferred proceeds analyses
- Arbitrage Yield Calculation
- Tracking of loan repayments to ECAA

Deliverable:

- Final Summary Report

TASK 2 - REVIEW REVENUE BOND STRUCTURE AND ACCOUNTS

The goal of this task is for the Contractor to become fully knowledgeable of all pertinent background and legal documentation required to conduct the arbitrage analysis.

The Contractor shall annually review the Revenue Bond Structure, as provided in the 2003A and 2005A Secured Loan Agreements, the Master Trust Agreement, Tax Certificates and Agreements and the accounts and sub-accounts that have been established under the respective Indentures, prior annual arbitrage calculations, including the arbitrage calculation methodology.

The Contractor shall submit an e-mail to the CCM confirming they have completed the review. A hard copy of the e-mail shall be submitted with the corresponding invoice for this deliverable.

Deliverable:

- Annual review confirmation e-mail

TASK 3 - ANALYZE RELEVANT ACCOUNTS AND SUB-ACCOUNTS AND PREPARE REBATE ANALYSIS AND RECOMMENDATIONS

The goals of this task are to calculate earnings on the Bonds and all bond related funds and provide instructions to the Energy Commission and bond trustee ("Bond Trustee") for the payment of rebate, if necessary.

The Contractor shall:

- Determine the arbitrage rebate requirements related to the Bonds, pursuant to the Internal Revenue Code and Treasury Regulations promulgated thereunder (collectively, the "Arbitrage Requirements"). Consult with the Infrastructure Bank (issuer of the Bonds) and the CCM on approaches to compliance.
- Verify and calculate the applicable bond yield for the Bonds (2003A and 2005A Series).
- Identify, and separately account for, all "Gross Proceeds" (as that term is defined in the Arbitrage Requirement) allocable to the Bond issue, including those requiring allocation analyses due to "transferred proceeds" and/or "commingled funds" circumstances.
- Calculate the 'Bonds' investment earnings and determine the current cumulative arbitrage liability in all Bond accounts and sub-accounts, (Loan Repayment Account, Debt Service Account, Surplus Repayment Account, Debt Service Reserve Account, Program Loan Account and Master Reserve Account and Master Rebate Accounts for each Series) and identify and quantify any other sources of investment earnings that might be applicable to the analysis. Contractor shall take into account any proceeds that are or have become subject to the yield restriction requirements.

- Prepare an annual Rebate Arbitrage Report identifying the methodology applied major assumptions, conclusions, and any recommendations for changes in Energy Commission record keeping. The report will include a written opinion that arbitrage calculations are consistent with the rebate requirements or an explanation why an opinion is unnecessary.

Deliverable:

- Annual Rebate Arbitrage Report

TASK 4 - PREPARE REQUIRED IRS ARBITRAGE REBATE DOCUMENTS

The goal of this task is to ensure the proper filings and tax documents are provided to the Internal Revenue Service by the federal filing due dates if contractor determines that the California Energy Commission owes rebate to the Internal Revenue Service. All activities listed below are conditional on whether or not rebate is due.

The Contractor shall:

- Prepare official Internal Revenue Service (IRS) tax documents / filings / Form 3038T as required by Federal Regulations.
- Forward all IRS required documents and filings to the CCM. CCM is responsible to obtain signature by the Energy Commission's Executive Director.
- Prepare a written summary of why filings are necessary.
- CCM is responsible for sending required IRS filings to Bond Trustee before the 60th day after applicable computation date.
- The Bond Trustee is responsible for sending the signed filings to the IRS by the 60th day after the applicable computation date.
- Work with the CCM and the Bond Trustee to ensure rebate payment, if necessary, is processed within 60 days of the applicable computation dates.

Deliverables:

- Summary of why filings are necessary
- Required IRS tax filings and documents

TASK 5 - CONSULTATION SERVICES

The goal of this task is to ensure the Energy Commission receives proper advice on administering financial funds and accounts. Communication and consultation by memos and e-mail may be needed to provide adequate administration of the funds, accounts, and sub-accounts as well as investment of amounts held in those funds and accounts.

It is estimated that this task shall require no more than 10% of the total resources devoted to this contract.

The Contractor shall:

- Provide assistance and consultation as necessary for ongoing monitoring of bond accounts and sub-accounts, and provide instructions on retaining records and documentation.
- Assist the Energy Commission as necessary in the event of an IRS inquiry.
- Provide ongoing assistance and consultation with respect to the investment and accounting approaches for the Bond funds and accounts.
- Provide ongoing assistance on the tracking of funds and loan repayments to the Energy Commission's Energy Conservation Assistance Account (ECAA).
- Coordinate between the Bond Trustees and the Energy Commission to ensure all necessary information is provided to perform calculations accurately.
- Provide training to Energy Commission staff as requested by CCM.

Deliverables:

- Memos
- E-mail communication

Deliverables and Due Dates

<u>Task</u>	<u>Deliverables</u>	<u>Due Date</u>
1 – Agreement Management <div> 1.1 1.2 1.4 </div>	Updated Schedule of Deliverables Invoices Final Summary Report	If applicable Monthly 10/31/14
2 – Review Revenue Bond Structure and Accounts	Annual Review Confirmation e-mail	5/1/12 5/1/13 5/1/14
3 – Analyze Relevant Accounts and Sub-accounts and Prepare Rebate Analysis and Recommendations	Annual Rebate Arbitrage Report	2003A: 5/25/12 5/25/13 5/25/14 2005A: 6/10/12 6/10/13 6/10/14
4 – Prepare Required IRS Arbitrage Rebate Documents	<ul style="list-style-type: none"> Summary of why filings are necessary Required IRS tax filings and documents 	2003A: 6/1/12 6/1/13 6/1/14 2005A: 7/1/12 7/1/13 7/1/14
5 – Consultation Services	<ul style="list-style-type: none"> Memos E-mail communication 	Upon Request

III. Evaluation Process and Criteria

ABOUT THIS SECTION

This section explains how the Bids will be evaluated. It describes the evaluation stages, preference points, and opening of all Bids.

BID EVALUATION

The Contract will be awarded to the Bidder who meets the minimum qualifications and has the lowest responsible Cost Bid after the preferences (if applicable) are applied.

The Bids will be analyzed in two stages:

Stage One: Administrative and Completeness Screening

Each Bid will be checked for the presence or absence of required information in conformance with Bid Format and Required Documents (see section IV). The Energy Commission will evaluate each Bid to determine its responsiveness to these requirements.

Stage Two: Cost Bid

Those Bids that are responsive to the criteria in Stage One will have their Cost Bid opened. All preferences will be applied, if applicable. The contract will be awarded to the responsible Bidder meeting the requirements outlined in Stage One, who provides the lowest cost, after application of preferences.

PREFERENCE POINTS

A Bidder may qualify for preference points as described below. Each qualifying Bidder passing Stage One screening will receive the applicable preference points.

Small / Microbusiness

Bidders who qualify as a State of California certified small/microbusiness will receive a cost preference of five percent (5%) of the lowest cost or price offered by the lowest responsible Bidder who is not a certified small/microbusiness, by deducting this five percent from the small/microbusiness Bidder's cost, for the purpose of comparing costs for all Bidders. Bidders qualifying for this preference must submit a copy of their Small Business Certification and document their status on Attachment 3, Contractor Status Form. See Attachment 5.1 for more detailed information about this program.

Non-Small Business

The preference to a non-small business bidder that commits to small business or microbusiness subcontractor participation of twenty-five percent (25%) of its net bid price shall be five percent (5%) of the lowest, responsive, responsible Bidder's price. A non-small business which qualifies for this preference may not take an award away from a certified small business. Bidders qualifying for this preference must document the small business status of all subcontractors on Attachment 5.4 and submit all applicable Small Business Certifications.

Disabled Veteran Business Enterprise Incentive Program

The DVBE Incentive program was established pursuant to Military & Veterans Code Section 999.5(2) and Department of General Services' Regulations 2 CCR 1896.98 et.seq. The

information in Attachment 5.1 explains how the incentive is applied and how much of an incentive will be given.

NOTICE OF PROPOSED AWARD

Subsequent to the Bid evaluations, the Energy Commission will post a Notice of Proposed Award (NOPA) at the Commission's headquarters in Sacramento, on the Commission's Web Site, and will mail the NOPA to all parties that submitted a Bid.

IV. Bid Format, Required Documents, and Delivery

ABOUT THIS SECTION

This section contains the format requirements and instructions on how to submit a Bid in response to this IFB. The format is prescribed to assist the Bidder in meeting State bidding requirements. Bidders must follow all Bid format instructions, answer all questions, and supply all requested data.

MINIMUM QUALIFICATIONS

By signing the Bidder Certification, Attachment 2, Bidder will certify all of the qualifications below.

1. The Firm has an office in California.
2. The Firm has provided arbitrage rebate compliance services for at least two tax-exempt State Revolving Fund debt financings or two complex multiple participant loan programs within the previous three (3) years.
3. The Firm is able to perform the tasks in the required time stated.
4. The Firm has conducted at least two revenue bond rebate arbitrage analyses within the previous two years.
5. The Firm's staff possesses the requisite training and credentials to conduct the arbitrage rebate analysis.

REQUIRED FORMAT FOR A BID

The documents in the Administrative Response (Volume 1, see below) and the Cost Bid (Volume 2, see below) constitute your Bid. The Cost Bid must be submitted in a separately sealed and labeled envelope.

NUMBER OF COPIES

Bidders must submit the original and two copies of Volume 1 and of Volume 2.

Bidders must also submit electronic files of all volumes of the Bid on [CD-ROM or USB memory stick](#) along with the paper submittal. Only one CD-ROM or USB memory stick is needed. Electronic files must be in Microsoft Word XP (.doc format) and Excel Office Suite formats. Completed Budget Forms, Attachment 7, must be in Excel format. Electronic files submitted via e-mail will not be accepted.

PACKAGING AND LABELING

The original and copies of each volume must be labeled "Invitation for Bids 600-10-606," and include the title of the Bid and the appropriate volume number:

Volume 1 – Administrative Response

Volume 2 – Cost Bid Forms

Include the following label information and deliver your Bid, in a sealed package:

Person's Name, Phone # Bidder's Name Street Address City, State, Zip Code FAX #	IFB 600-10-606 Contracts Office, MS-18 California Energy Commission 1516 Ninth Street, 1st Floor Sacramento, California 95814
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PREFERRED METHOD FOR DELIVERY

A Bidder may deliver a Bid by:

- U. S. Mail
- Personally
- Courier service

Bids must be delivered no later than 3:00 p.m., to the Energy Commission Contracts Office during normal business hours and prior to the deadline specified in this IFB (Section I). In accordance with Public Contract Code 10341, Bids received after the specified date and time are considered late and will not be accepted. There are no exceptions to this law. Postmark dates of mailing, E-mail and facsimile (FAX) transmissions are not acceptable in whole or in part, under any circumstances.

ORGANIZE YOUR BID AS FOLLOWS

VOLUME 1, Administrative Response

Bidder Checklist	Attachment 1
Bidder Certification	Attachment 2
Contractor Status Form	Attachment 3
Darfur Contracting Act Form	Attachment 4
Small Business Certification	If applicable
Completed Disabled Veteran Business Enterprise form	Attachment 5.3
Bidder Declaration form GSPD-05-105	Attachment 5.4
Contractor Certification Clauses	Attachment 6

VOLUME 2, Cost Bid (Sealed Separately from Volume 1)

Budget Forms

Task Summary	Attachment 7, Attachment B-1
Category Summary	Attachment 7, Attachment B-2
Prime Labor Rates	Attachment 7, Attachment B-3
Labor Rates for each Subcontractor	Attachment 7, Attachment B-3a-z
Prime Non-Labor Rates	Attachment 7, Attachment B-4
Non-Labor Rates for each Subcontractor	Attachment 7, Attachment B-4a-z
Direct Operating Expenses	Attachment 7, Attachment B-5

The Contractor must submit information on **all** of the attached budget forms, B-1 through B-5, and this will be deemed the equivalent of a formal Bid submission.

Detailed instructions for completing these forms are included at the beginning of Attachment 7.

Rates and personnel shown must reflect rates and personnel you would charge if you were chosen as the Contractor for this IFB. The salaries, rates, and other costs entered on these forms become a part of the final Agreement. The entire term of the Agreement and projected rate increases must be considered when preparing the budget. The rates bid are considered capped and shall not change during the term of the Agreement. The Contractor shall only be reimbursed for their **actual** rates up to these rate caps. The hourly rates provided in all B-3s shall be unloaded (before fringe benefits, overheads, general & administrative (G&A) or profit).

The award shall be made to the Bidder with the lowest Grand Total amount on Attachment 7, Attachment B-1 Task Summary. The Grand Total amount in the Bidder's cost Bid shall include all costs for accomplishing all tasks. When preparing its Bid, the Bidder shall allocate 10% of its Bid amount to Task 5. Other task percentages may vary from one Bid to another, depending on each Bidder's specific costs. Low Bid is determined by comparing the Grand Total amounts for each Bidder.

All other budget forms are required because they will be used for the Agreement prepared with the winning Bidder.

NOTE: The information provided in these forms will **not** be kept confidential.

V. Administration

IFB DEFINED

The competitive method used for this procurement of services is an Invitation for Bids (IFB). A Bid submitted in response to this IFB will be opened and read publicly. The Energy Commission will contract with the Bidder who provides the lowest responsible Bid, and satisfies the minimum requirements.

DEFINITION OF KEY WORDS

Important definitions for this IFB are presented below:

Word/Term	Definition
State	State of California
DGS	Department of General Services
Energy Commission	California Energy Commission
IFB	Invitation for Bid, this entire document
Bid	The Administrative Response and Cost Bid together
Bidder	Respondent to this IFB
CCM	Commission Contract Manager
DVBE	Disabled Veteran Business Enterprises

COST OF DEVELOPING BID

The Bidder is responsible for the cost of developing a Bid, and this cost cannot be charged to the State.

SOFTWARE APPLICATION DEVELOPMENT

If this scope of work includes any software application development, including but not limited to databases, websites, models, or modeling tools, contractor shall utilize the following standard Application Architecture components in compatible versions:

- Microsoft ASP.NET framework (version 3.5 and up) Recommend 4.0
- Microsoft Internet Information Services (IIS), (version 6 and up) Recommend 7.5
- Visual Studio.NET (version 2008 and up) Recommend 2010
- C# Programming Language with Presentation (UI), Business Object and Data Layers
- SQL (Structured Query Language)
- Microsoft SQL Server 2008, Stored Procedures Recommend 2008 R2
- Microsoft SQL Reporting Services Recommend 2008 R2
- XML (external interfaces)

Any exceptions to the Electronic File Format requirements above must be approved in writing by the Energy Commission Information Technology Services Branch.

PRINTING SERVICES

Per Management Memo 07-06, State Agencies must procure printing services through the Office of State Publishing (OSP). Bidders shall not include printing services in their Bids.

CONFIDENTIAL INFORMATION

The Commission will not accept or retain any Bids that are marked confidential in their entirety and Bidders are strongly discouraged from requesting confidential treatment for any of the information contained in a submittal.

DARFUR CONTRACTING ACT OF 2008

Effective January 1, 2009, all solicitations must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, *et seq.*; Stats. 2008, Ch. 272) The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with “scrutinized” companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a “scrutinized” company when it submits a bid or proposal to a State agency. (See # 1 on Attachment 4)

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on Attachment 4)

DISABLED VETERAN BUSINESS ENTERPRISES (DVBE) COMPLIANCE REQUIREMENTS

The Disabled Veteran Business Enterprise (DVBE) Program has two inter-related aspects:

Participation Goals: This IFB is subject to a mandatory participation goal of three percent (3%) certified California Disabled Veteran Business Enterprise (DVBE) as set forth in Public Contract Code Section 10115 *et seq.*

And,

Incentive: The DVBE Incentive Program gives a contractor an opportunity to improve their bid status based on the efforts attained from the DVBE Participation Program.

More information regarding DVBE and Small Business is located in Attachments 5.1 through 5.4.

IFB CANCELLATION AND AMENDMENTS

If it is in the State's best interest, the Energy Commission reserves the right to do any of the following:

- Cancel this IFB;
- Amend this IFB as needed; or
- Reject any or all Bids received in response to this IFB

If the IFB is amended, the Energy Commission will send an addendum to all parties who requested the IFB and will also post it on the Energy Commission's Web Site www.energy.ca.gov/contracts and Department of General Services' Web Site http://www.bidsync.com/DPX?ac=powersearch&srchoid_override=307818.

ERRORS

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the IFB, the Bidder shall immediately notify the Commission of such error in writing and request modification or clarification of the document. Modifications or clarifications will be given by written notice of all parties who requested the IFB, without divulging the source of the request for clarification. The Commission shall not be responsible for failure to correct errors.

MODIFYING OR WITHDRAWAL OF BID

A Bidder may, by letter to the Contact Person at the Energy Commission, withdraw or modify a submitted Bid before the deadline to submit Bids. Bids cannot be changed after that date and time. A Bid cannot be "timed" to expire on a specific date. For example, a statement such as the following is non-responsive to the IFB: "This cost estimate is valid for 60 days."

IMMATERIAL DEFECT

The Energy Commission may waive any immaterial defect or deviation contained in a Bid. The Energy Commission's waiver shall in no way modify the Bid or excuse the successful Bidder from full compliance.

DISPOSITION OF BIDDER'S DOCUMENTS

On the Notice of Proposed Award posting date all Bids and related material submitted in response to this IFB become a part of the property of the State and public record. Bidders who want any work examples they submitted with their Bids returned to them shall make this request and provide either sufficient postage, or a Courier Charge Code to fund the cost of returning the examples.

BIDDERS' ADMONISHMENT

This IFB contains the instructions governing the requirements for a firm quotation to be submitted by interested Bidders, the format in which the information is to be submitted, the material to be included, the requirements which must be met to be eligible for consideration, and Bidder responsibilities. Bidders must take the responsibility to carefully read the entire IFB, ask appropriate questions in a timely manner, submit all required responses in a complete manner by the required date and time, make sure that all procedures and requirements of the IFB are followed and appropriately addressed, and carefully reread the entire IFB before submitting a Bid.

GROUND TO REJECT A BID

A Bid shall be rejected if:

- It is received after the exact time and date set for receipt of Bids pursuant to Public Contract Code, Section 10341.
- It is considered non-responsive to the California Disabled Veteran Business Enterprise participation requirements.
- It is lacking a properly executed Certification Clauses.
- It is lacking a properly executed Darfur Contracting Act Form.
- It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.
- The Bid is intended to erroneously and fallaciously mislead the State in its evaluation of the Bid and the attribute, condition, or capability is a requirement of this IFB.
- There is a conflict of interest as contained in Public Contract Code Sections 10410-10411 and/or 10365.5.
- It contains confidential information.
- Bidder will perform all or part of the work in California and is a corporation but not found on the Secretary of State website to be currently qualified to do business in California in accordance with the Contractor Certification Clauses.
- The Bidder does not agree to the terms and conditions as attached to the solicitation either by not signing the Contractor Status Form or by stating anywhere in the bid that acceptance is based on modifications to those terms and conditions or separate terms and conditions.

A Bid may be rejected if:

- It is not prepared in the mandatory format described.
- The charges are computed incorrectly.
- It is unsigned.
- The firm or individual has submitted multiple Bids.
- It does not literally comply or contains caveats that conflict with the IFB and the variation or deviation is not material, or it is otherwise non-responsive.
- The bidder has previously completed a PIER agreement, received the PIER Royalty Review letter, which the Commission annually sends out to remind past recipients of their obligations to pay royalties, and has not responded to the letter or is otherwise not in compliance with repaying royalties.
- The budget forms are not filled out completely.

PROTEST PROCEDURES

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, or the Commission cancels the IFB, or the Department of General Services decides the matter.

Please note the following:

- Protests are limited to the grounds contained in the California Public Contract Code Section 10345.
- During the five **working** days that the Notice of Proposed Award (NOPA) is posted, protests must be filed with the DGS Legal Office and the Commission Contracts Office.
- Within five **calendar** days after filing the protest, the protesting Bidder must file with the DGS and the Commission Contracts Office a full and complete written statement specifying the grounds for the protest.
- If the protest is not withdrawn or the solicitation is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Commission for the DGS hearing officer consideration.

AGREEMENT REQUIREMENTS

The content of this IFB shall be incorporated by reference into the final contract. See the sample Agreement terms and conditions included in this IFB.

No Contract Until Signed & Approved

No agreement between the Commission and the successful Bidder is in effect until the contract is signed by the Contractor, approved at a Commission Business Meeting, and approved by the Department of General Services, if required.

Contract Amendment

The contract executed as a result of this IFB will be able to be amended by mutual consent of the Commission and the Contractor. The contract may require amendment as a result of project review, changes and additions, changes in project scope, or availability of funding.